

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SAMUEL L. HALL,

Defendant.

CIVIL ACTION

**Case Nos. 06-20081-CM
 09-2185-CM**

ORDER

This case comes before the court on the Motion to Withdraw of Ronald E. Wurtz (Doc. 96). Mr. Wurtz filed a motion pursuant to 28 U.S.C. § 2255 on behalf of defendant. Citing a conflict, Mr. Wurtz now asks the court to appoint substitute counsel to further pursue defendant's § 2255 motion. The government has responded to defendant's § 2255 motion. The court is awaiting defendant's reply brief, and the motion will then be ripe for review.

The public defender represented defendant for a portion of defendant's underlying case at the district court level and on appeal. Generally, when a defendant decides to seek § 2255 relief, counsel does not continue to represent him—particularly court-appointed counsel. A defendant has no right to counsel when seeking collateral relief. *United States v. Prows*, 448 F.3d 1223, 1229 (10th Cir. 2006) (“[T]here is no right to counsel in collateral proceedings[.]”).

The court is inclined to let defendant proceed *pro se* in this case if Mr. Wurtz withdraws. Assuming that the court does not appoint substitute counsel, Mr. Wurtz has not complied with the directives of D. Kan. Rule 83.5.5(a). The court therefore denies the motion to withdraw without prejudice. Mr. Wurtz may refile the motion in compliance with Rule 83.5.5. Alternatively, Mr. Wurtz may argue in more specific detail to the court why substituted counsel is appropriate in this

habeas case. At this time, however, he has not shown the court why it should appoint substitute counsel for defendant.

In light of the above ruling, the court *sua sponte* extends defendant's deadline to file a reply brief in support of his § 2255 motion to September 1, 2009.

IT IS THEREFORE ORDERED that the Motion to Withdraw (Doc. 96) is denied without prejudice. Defendant's deadline to file a reply brief in support of his § 2255 motion is extended to September 1, 2009.

Dated this 3rd day of August 2009, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge